

**TO:**  
Manager, Broadcasting and Online Content  
Department of Communications, Information Technology and the Arts  
GPO Box 2154  
CANBERRA ACT 2600

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# **Submission to the Department of Communications, Information Technology and the Arts**

Review of the *Interactive Gambling Act 2001* (Cth)

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**COMMISSIONED BY:** Manager, Broadcasting and Online Content

**DATE:** 2003-04-22

**AUTHOR:** Alan Pedley

**SIGNATURE:** 

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# 1 Summary

The *Interactive Gambling Act 2001* (Cth), the Act, has been very unsuccessful in achieving its stated objective (per the *Revised Explanatory Memorandum*), in that:

- ❖ Australians' access to interactive gambling has not been restricted;
- ❖ problem gambling by interactive means is exacerbated by the Act; and
- ❖ Australia's "knowledge economy" has been adversely impacted.

Other affects of the Act are:

- ❖ Australia's racing industry is losing funding; and
- ❖ Australian's are forced by the Act to transact with dubious operators in places associated with money laundering.

The Act has gone about addressing problem gambling behaviour by prohibiting access to gambling. Like other forms of prohibition this has served to exacerbate the problem. This submission proposes the best strategy for limiting potential problem gambling in Australia associated with interactive gambling services is by exploiting the strengths of the technology. Importantly, a spin-off of this approach will be a baseline method to address the real problem gambling associated with physical gaming machines.

This submission also considers the findings of the Productivity Commission and a recent report by the Victorian Gambling Research Panel. The submission is consistent with but goes further than either of these reports in proposing that the exploitation of technology can minimise problem gambling. The submission recommendations in this submission will:

- ❖ minimise the adverse impact of interactive gambling;
- ❖ reduce Australian financial transactions with unlicensed operators in countries associated with money laundering;
- ❖ allow technology to be exploited to limit potential problem gambling in Australia associated with interactive gambling services;
- ❖ allow that same technology to evolve to limit problem gambling in Australia associated with electronic gaming machine industry;
- ❖ marginalise illegal or unlicensed interactive gambling services; and
- ❖ stimulate Australia's knowledge economy and racing industries.

It is submitted the Government should modify the *Interactive Gambling Act* (Cth) to:

- ❖ only ban interactive gambling, which does not provide appropriate consumer safeguards (regulation, behavioural, and money laundering); and
- ❖ allow Australian wagering operators to bet in-the-run.

Finally, WWWagering & Gaming Consultants submit that legislation restricting how people may utilise their discretionary expenditure is not an appropriate means to control problem gambling; especially when technical solutions are available.

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## **3 Impact of the Interactive Gambling Act 2001 (Cth)**

### **3.1 Information economy**

Investment in Australia's interactive gambling industry has dried to a trickle as a result of the strategic uncertainty of Australian policy. Firstly, "the moratorium", followed by the Act under the shadow of this review has caused investors to look away from Australia for interactive gambling.

MGM Mirage, The Ritz Club London, Hard Rock, Littlewoods, The Venetian – to name a few - have all diverted e-commerce investment from Australia to other jurisdictions offering a rigid regulatory environment. The Isle of Man and Alderney have established interactive gambling legislation as a result investment being turned away from Australia, where Australia was previously the principal jurisdiction for regulated interactive gambling. The capital investment lost would exceed AUD100M, and hundreds of direct e-commerce jobs in an export sector.

Investment, employment, and revenue continue to be lost in this e-commerce export segment.

### **3.2 Restricted gaming access**

#### **3.2.1 Unsuccessful**

The strategy of restricting access by the exclusion of Australian sites is flawed. The *Interactive Gambling Act 2001 (Cth)* fails to materially restrict access to interactive gambling by Australians. Australians are able to play at any one of the thousands of internet casinos –samples appear at Annex B.

Australians have effectively unrestricted access to interactive gaming.

#### **3.2.2 Increases likelihood of problem gambling**

The only interactive casinos in the world with technological controls to limit the likelihood of problematic gambling are either banned from protecting Australians or choose not to sell to Australians. These same sites are the only sites in the world with known, credible management, regulated systems providing integrity and confidentiality.

Australians are forced to interact with operators with no problem gambling policy whatsoever.

#### **3.2.3 Increases likelihood of corruption**

The Act forces Australians to transact with shady characters in jurisdictions known to be associated with money laundering. WWWagering & Gaming Consultants submit that transactions through intermediaries, which are not "cash dealers" per the *Financial Transactions Reporting Act (Cth)* and therefore not subject to money laundering reporting further increase the potential for Australians to perhaps unwittingly become involved with the money laundering schemes of others.

Australians are forced to trade with unlicensed persons in dubious jurisdictions, with no safeguards.

### **3.3 Betting in-the-run**

Substantial funds are bet with licensed and unlicensed off-shore agencies in-the-run. Betting in-the-run enables bettors to hedge their positions and manage their risk in the dynamic context of an event. Every bet on Australian horse racing made with an off-shore agency, whether licensed or not, robs the Australian racing industries of revenue, Australian employment, and revenue.

The prohibition on betting in-the-run has an adverse economic impact on the Australian economy. Australians continue to bet in-the-run.

## 4 Harnessing technology to limit problem gambling

The *Interactive Gambling Act 2001* (Cth) attempts to restrict problem gambling through prohibitive controls. The thousands of interactive casino sites (see Annex A and Annex B) demonstrate this is a flawed approach.

### 4.1 The link between accessibility and problem gambling behaviour

Following the Productivity Commission report titled "*Australia's Gambling Industries*", dated 1999-11-26 much has been made about the link between accessibility – 8 *The link between accessibility and problems*.

WWWagering & Gaming Consultants submit the Productivity Commission was correct in so-far as establishing a link where the gambling is not regulated with regard to problem behaviour controls. That is to say there is a third element, which causes problems – "lack of control". This is analogous with the commonly understood fire triangle, per **Figure 1 – analogy problem gambling – fire triangle**.

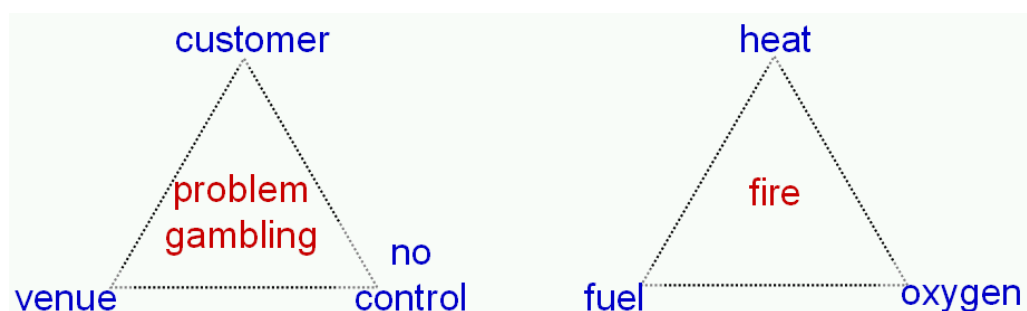


Figure 1 – analogy problem gambling – fire triangle

This view of problem gambling and accessibility is on the basis that the absence of any element (like the fire triangle) will remove the problem.

- ❖ Remove customers → no problem gambling
- ❖ Remove gambling → no problem gambling
- ❖ Remove "no controls" → implement controls → no problem gambling

The current legislation attempts to "remove gambling" without success, in fact exacerbating problem gambling.

The most effective measure that can be taken to limit problem gambling is harnessing technology to *implement controls* designed to restrict problem gambling, that is remove "no controls" element from the problem gambling triangle.

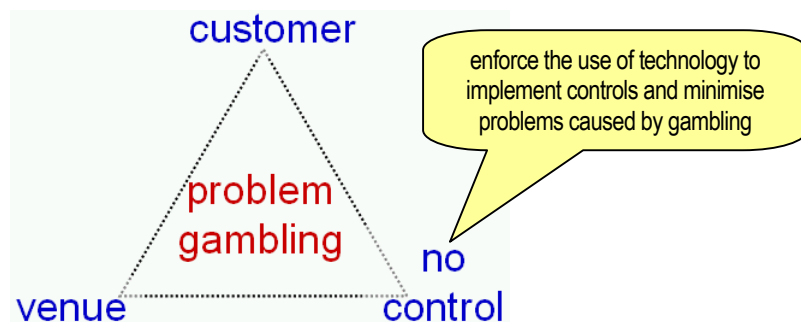


Figure 2 - problem gambling triangle

The Gambling Research Panel report titled "*The Evaluation of Self-exclusion Programs in Victoria*"; dated February 2003 cites significant weaknesses in relation to implementing effective exclusion programmes. This report goes on to make a series of recommendations in relation to minimising harm associated with gaming machines. These recommendations and more are available through interactive technology.

## 4.2 Advantages of technology in limiting problematic behaviour

The Productivity Commission, in its report titled "*Australia's Gambling Industries*"; dated 1999-11-26 correctly identified how technology can be used in the battle to limit the harm caused by gambling. **6 Revisiting the Productivity Commission** Report starting on page 2 revisits much of that report in the context of this review.

Only interactive gambling is currently able to provide:

- ❖ full information to customers about their gambling behaviour;
- ❖ enforced positive identification of customers (account based gambling);
- ❖ betting limits;
- ❖ loss limits;
- ❖ deposit limits;
- ❖ enforced breaks;
- ❖ enforced exclusion; etc.

Each of these controls will allow positive measures to restrict the incidence of problem gambling.

Furthermore, technology could be utilised to enable the study of early identification of problematic behaviour and ultimately targetting preventative programmes.

These positive controls are only able to be used in the fight to limit the ills of gambling if operators are allowed to sell to Australians.

### 5.1 The growth of interactive gambling services

The review is required to provide an assessment of the development of interactive gambling services both in Australia and overseas. This will include an assessment of the size and projected growth of the interactive gambling industry. The industry response to the introduction of the Commonwealth's interactive gambling legislation will also be assessed, along with the impact of regulatory measures introduced in other jurisdictions. The review will also provide an assessment of the availability of interactive gambling services and the incidence of use of these services in Australia.

Unregulated interactive gambling continues unabated, by persons of unknown integrity or character, from jurisdictions known to be associated with money laundering.

Regulated interactive gaming is gravitating to the Isle of Man and Alderney. The United Kingdom has indicated it will legislate to enable regulated interactive gaming in pending amendments to its gaming legislation. In an address to industry participants at the International Casino Exhibition (London) on 2003-01-23, Tom Kavenagh of the Gaming Board for Great Britain acknowledged this was to implement social policy responsibilities.

Credible operators – seeking credible regulation – have established in the Isle of Man (e.g. Littlewoods, MGM Mirage, Hard Rock, and others) and others are licensed in Alderney (The Ritz Club London, The Venetian, and others). These credible operators, with controls to restrict problematic behaviour, choose to exclude Australian customers. These operators were likely to establish in Australia before federal intervention.

Annex A provides a search list of accessible interactive gaming sites and Annex B snapshots of readily accessible internet casinos. It would be naive to believe Australians are restricting their interactive gambling as a result of the *Interactive Gambling Act 2001* (Cth).

The interactive gambling industry is starved of investment as a result of the Act and this review (previously pending). Nevertheless, with policy stability and enabling technology controls Australia can expect:

- a. safer environment for Australian gamblers;
- b. renewed investor interest;
- c. investment;
- d. employment; and
- e. export revenue.

### 5.2 The social and commercial impact of Interactive Gambling Services

... the overall aim of the IGA is to limit potential problem gambling in Australia associated with interactive gambling services. The review is required to consider the social and commercial impact of interactive gambling services and the effectiveness of the IGA in dealing with these impacts. This will involve analysis of the incidence of problem gambling in Australia with respect to both illegal and excluded interactive gambling services relative to the incidence of problem gambling in offline equivalents.

The *Interactive Gambling Act 2001* (Cth) has been worse than unsuccessful in limiting the potential for problem gambling in Australia with interactive gambling services.

The Act has forced Australians who choose to game with interactive gambling services to only use unregulated sites, and there are thousands to choose from. The only sites with known, credible owners and management, and controls to minimise the likelihood of problematic behaviour are off-limits to Australians.

Australians are forced to transact with dubious organisations in jurisdictions known to harbour money laundering. When payment mechanisms outside the normal financial institutions are used, then the potential for money laundering and the disastrous social impacts associated with that are widely considered to be associated with illegal activities including international terrorism.

According to the Productivity Commission in 1999, interactive gambling was not a source of particular problematic behaviour; refer to **Figure 3 - Participation and frequency of gambling by adult Australians (%)**.

**Table 1 Participation and frequency of gambling by adult Australians**

Form of gambling	Total Participation (per cent)	of which:			
		Less than once a month	1-3 times a month	1-3 times a week	>3 times a week
Lotto or other lottery games	60	25	24	45	6
Instant scratch tickets	46	52	33	14	1
Poker or gaming machines	39	62	25	11	2
Racing	24	71	14	13	2
Keno	16	72	20	7	1
Casino table games	10	82	15	2	0
Sports betting	6	52	25	23	0
Bingo	5	49	23	27	2
Private gambling	5	68	23	7	2
Played an internet casino game	0.4	60	15	21	4
<b>Any gambling activity</b>	<b>82</b>	<b>26</b>	<b>24</b>	<b>37</b>	<b>13</b>

Source: PC National Gambling Survey.

**Figure 3 - Participation and frequency of gambling by adult Australians (%)**

These percentages appear as quantity of Australians **Figure 4 - Participation of gambling by adult Australians (qty)**. The Act may have an adverse increase in participation rates for gambling with interactive service providers for reasons cited elsewhere in this submission. However, these figures are likely to remain indicative.

Participation of gambling by adult Australians					
Lotto or other lottery games	8,640,000	2,160,000	2,073,600	3,888,000	518,400
Instant scratch tickets	6,624,000	3,444,480	2,185,920	927,360	66,240
Poker or gaming machines	5,616,000	3,481,920	1,404,000	617,760	112,320
Racing	3,456,000	2,453,760	483,840	449,280	69,120
Keno	2,304,000	1,658,880	460,800	161,280	23,040
Casino table games	1,440,000	1,180,800	216,000	28,800	-
Sports betting	864,000	449,280	216,000	198,720	-
Bingo	720,000	352,800	165,600	194,400	14,400
Private gambling	720,000	489,600	165,600	50,400	14,400
Played an internet casino game	57,600	34,560	8,640	12,096	2,304
<b>Any gambling activity</b>	<b>11,808,000</b>	<b>3,070,080</b>	<b>2,833,920</b>	<b>4,368,960</b>	<b>1,535,040</b>

**Figure 4 - Participation of gambling by adult Australians (qty)**

The figures cited by the Productivity Commission demonstrate adult Australians are:

- 6 times more likely to gamble at Bingo, and
- 225 times more likely to gamble at Lotto more than three times per week, than interactive gaming.

Therefore, interactive gambling represents a low risk segment ideal to prove the ability of technology to assist in efforts, which limit potential problem gambling in Australia. That technology could then be migrated to the gaming machine industries through intranet and server-side gaming – to provide national protection of customers from problematic behaviour associated with gambling. The Act currently bans the exploitation of technology for this purpose.

### 5.2.1 Welfare or other services

There was no evidence that problematic gambling with interactive gambling services caused Australians to seek welfare or other support services before the introduction of the Act.

### 5.2.2 In-the-run betting

Off-shore bookmakers fielding on Australian sports and racing events is clear evidence the market exists. Participation in Australian-centric markets is most probably dominated by Australians. Off-shore operators generally allow in-the-run betting, which allows customers to trade and hedge their positions – a natural attraction.

Restrictions on in-the-run betting force business off-shore, away from Australian industry (betting, technology, and racing).

### 5.3 The Operation of the IGA and the Effect of Existing Exclusions

- The Commonwealth's regulatory framework is comprised of three elements:
- \* the offence provisions in the IGA
  - \* and the exclusions outlined above;
  - \* the complaints scheme administered by the ABA; and
  - \* the operation of the Interactive Gambling Industry Code.

In the period 11 January to 31 December 2002, the ABA received 13 complaints about Internet gambling content. Eleven investigations were completed, with two investigations terminated due to lack of sufficient information (in both cases the ABA was unable to locate any Internet content at the addresses provided by the complainants). Of the 11 investigations completed, seven resulted in location of prohibited Internet gambling content hosted outside Australia and the ABA notified the details of the content to the makers filter software products, in accordance with the procedure set out in the Code. Two investigations resulted in location of Australian hosted content that was not prohibited. In relation to the advertising prohibition under the IGA, two complaints have been received and are currently under investigation.

Any analysis of the quantity and nature of sites would reasonably conclude the capacity for the Australian government **to limit potential problem gambling in Australia associated with interactive gambling services**, by its powers under the *Interactive Gambling Act 2001* (Cth) are negligible. With thousands of interactive services providers operating off-shore the long arm of the Australian government has limited effect in practice.

It is submitted that the low number of complaints is a result of the public being aware of the futility of the exercise of complaining about an off-shore service provider, and not necessarily a measure of complaint-worthiness.

WWWagering & Gaming Consultants submit the strategy of existing exclusions is flawed. Exploiting the technologies at the server through enabling legislation will have far greater effect in limiting potential problem gambling in Australia associated with interactive gambling services. Refer to **4 Harnessing technology to limit problem gambling** on page 2.

### 5.4 Technological developments relevant to the regulation of interactive gambling services or capable of assisting in the management of problem gambling

Technologies relevant to the regulation of interactive gambling would include those capable both of assisting regulation, such as filtering technologies, and conversely those used either to promote interactive gambling or to undermine the offence provisions and complaints scheme of the IGA.

However, technological developments are also able to provide more effective consumer protection mechanisms, including for example complete transaction records and effective mechanisms for pre-commitment on spending. These may mitigate the incidence of problem gambling associated with interactive gambling services.

Again WWWagering & Gaming Consultants refer to **4 Harnessing technology to limit problem gambling** on page 2.

Play the Games **Cashier** Chat Competitions Sign Out Support Help

## GAME HISTORY

TN: lasseters

DATE/TIME	GAME	ID	\$	BET	WON	BALANCE	
24 FEB 1999 08:09:26 AM	LASSETERSGOLD	268502	2-	F 5	10	2197	<a href="#">DETAILS</a>
24 FEB 1999 08:09:21 AM	LASSETERSGOLD	268501	2-	F 5	0	2192	<a href="#">DETAILS</a>
24 FEB 1999 08:09:16 AM	LASSETERSGOLD	268500	2-	F 5	0	2197	<a href="#">DETAILS</a>
24 FEB 1999 08:09:12 AM	LASSETERSGOLD	268499	2-	F 5	0	2202	<a href="#">DETAILS</a>
24 FEB 1999 08:09:07 AM	LASSETERSGOLD	268498	2-	F 5	0	2207	<a href="#">DETAILS</a>
24 FEB 1999 08:09:02 AM	LASSETERSGOLD	268497	2-	F 5	0	2212	<a href="#">DETAILS</a>
24 FEB 1999 08:08:57 AM	LASSETERSGOLD	268496	2-	F 5	2	2217	<a href="#">DETAILS</a>
24 FEB 1999 08:08:52 AM	LASSETERSGOLD	268495	2-	F 5	0	2220	<a href="#">DETAILS</a>

THIS IS THE FIRST PAGE [NEXT PAGE](#)

These pages list all of the games you have played with Lasseters

**FREE GAMES!**

Figure 5 - example of a customer transaction records circa 1999

Regulation will be more effectively applied at the server. The interactive gambling regulations of the Northern Territory of Australia, the Isle of Man, and Alderney are very effective in controlling interactive gambling activity. Complete transaction records, pre-commitment on spending, exclusions, alerts, education links, etc have all been in place through server directed regulatory controls since the late 1990's. **Figure 5 - example of a customer transaction records circa 1999**, **Figure 6 - example of bet limits circa 1999**, and **Figure 7 - example of self exclusion circa 1999** are provided as operational examples of this technology.

Play the Games **Cashier** Chat Competitions Sign Out Support Help

## BET LIMIT

TN: form1test7

Lasseters Online are committed to offering responsible gaming choices for our valued players. An important facet of responsible gaming is allowing you to set your own player bet limits. You may choose to decrease your bet limit displayed by nominating a lower amount and selecting the "Change Limit" button. Your bet limit is currently set to:

**AUD \$200.00 every 7 days.**

Your current betting period ends on Tuesday, 15 December 1998, 07:54:14am, and you have:

**AUD \$200.00 remaining for this period.**

If you wish to decrease your bet limit, enter the value below.

Limit betting to  every 7 days.

**8 Minute Download**

Figure 6 - example of bet limits circa 1999

Australian States and Territories have published the AUSModel (Annex C), which provides for many controls which are likely to be effective in limiting potential problem gambling in Australia associated with interactive gambling services. The *Interactive Gambling Act 2001* (Cth) has ensured unlicensed, uncontrolled interactive service providers remain viable from dubious jurisdictions.



Figure 7 - example of self exclusion circa 1999

The relatively small incidence of interactive gambling by Australians (refer **Figure 3 - Participation and frequency of gambling by adult Australians (%)**) allows State and Territory regulators to prove the effectiveness of their operator based regulatory schemes in limiting potential problem gambling in Australia associated with interactive gambling services, with zero increased risk to the Australian population. Once proven these controls could be introduced to widespread electronic gaming machine industries through intranet and server based gaming.

The technology exists however; the Act effectively prohibits its use to protect Australians.

## 5.5 The feasibility of and capacity to regulate financial transactions associated with the provision of interactive gambling services

### 5.5.1 Feasibility

The complexities of legality and illegality of instantaneous international trade bought about by the Internet and other communications media are significant.

As a general principle WWWagering & Gaming Consultants submit that the principles of free trade should be applied to e-commerce industries. Thus if the activity is legal at the server – if we accept offer and acceptance occur at the server – then the transaction should be generally legal under free trade principles. Australia has an opportunity to regain its previous lead in properly regulated interactive gaming services and export player protection mechanisms to the world, by facilitating, not restricting international e-commerce in the gambling sectors.

### 5.5.2 Capacity to regulate financial transactions

There has been limited success in the United States in relation to legislating to regulate financial transactions associated with the provision of interactive gambling services.

However, merchants (interactive gambling service providers) often register business activities under codes which avoid credit card traps. There are various alternate payment mechanisms available to enable the interactive gambling transactions, refer to **Figure 8 - various payment solutions offered by an interactive service provider**.

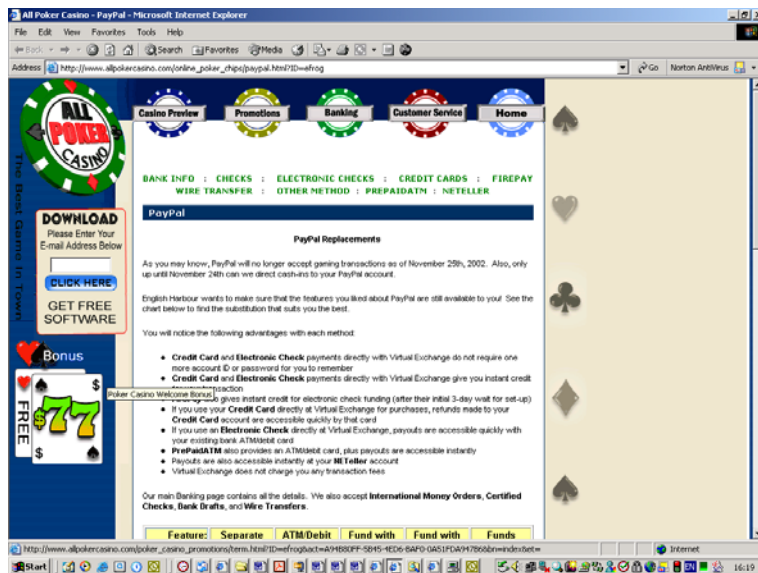


Figure 8 - various payment solutions offered by an interactive service provider

### 5.5.2.1 Undesirable impact on the “knowledge economy”

Some jurisdictions provide properly licensed and regulated interactive gambling services, some which mechanisms to control problematic behaviour. If Australians were able to repudiate such legal transactions (say in the United Kingdom) on the basis that the service was illegal under Australian statutes, then this would be disastrous for Australia’s active participation in the international electronic trade and commerce.

Australia’s problem gamblers and “knowledge economy” is best served by the exploitation of technology to limiting potential problem gambling in Australia associated with interactive gambling services.

### 5.5.2.2 Undesirable impact on money laundering

As controls on payment mechanisms are tightened market forces will find alternate payment solutions.

Some e-commerce payment mechanisms allow funds to be moved from a person’s financial institution to the internet payment provider and on to another person’s financial institution.

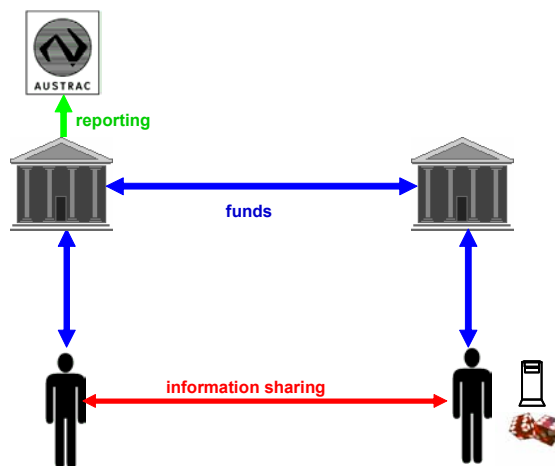


Figure 9 - structure of money laundering controls with current payment mechanisms and legislation

**Figure 9 - structure of money laundering controls with current payment mechanisms and legislation** money laundering controls under the *Interactive Gaming Act 2001* (Cth) where interactive service providers operate from countries with no gaming controls and inadequate money laundering provisions. The current structure is less than ideal as most interactive service providers are located in countries with inadequate anti-money laundering controls.

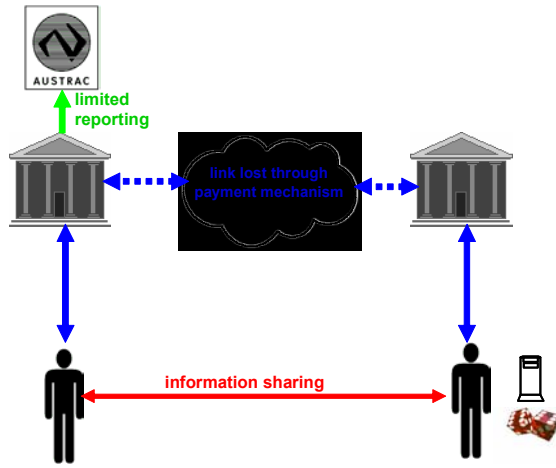


Figure 10 - lack of money laundering controls with alternate payments and existing legislation

**Figure 10 - lack of money laundering controls with alternate payments and existing legislation** demonstrates that even current financial transactions reporting is obscured as funds are transferred to third party payment providers and then on the interactive service provider's financial institution in a country which does not provide adequate anti-money laundering controls.

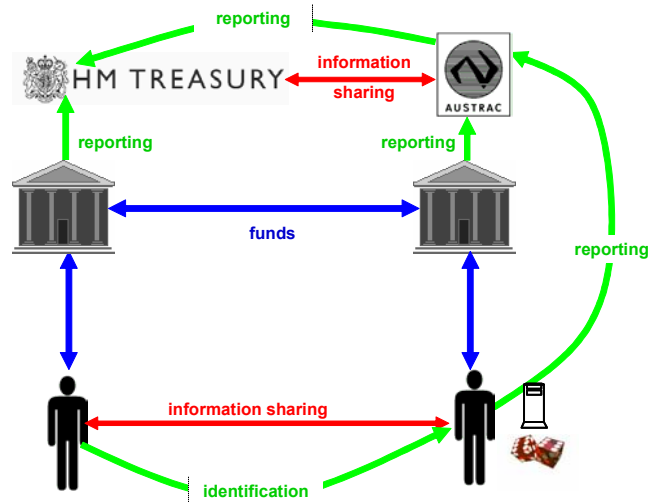


Figure 11 - anti-money laundering controls, if provider is licensed and regulated

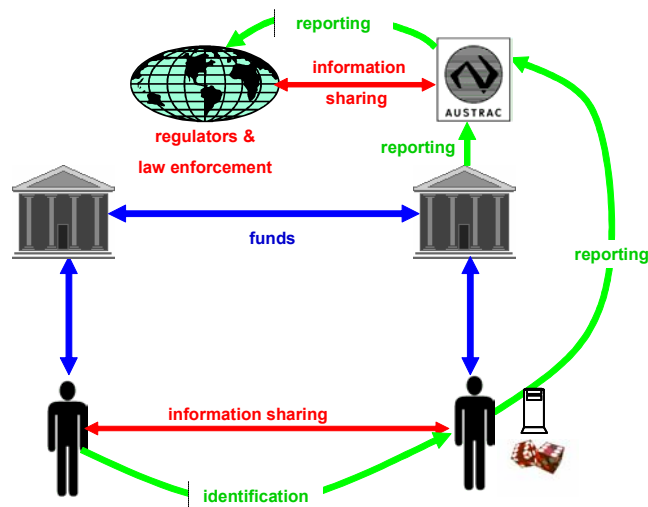


Figure 12 - anti-money laundering controls, if provider is licensed and regulated

Whereas, **Figure 11 - anti-money laundering controls, if provider is licensed and regulated** and **Figure 12 - anti-money laundering controls, if provider is licensed and regulated** show abstracts of how money laundering could be prevented in an environment where the interactive gaming service provider is legitimate, known and licensed in a credible jurisdiction. Financial transactions reporting by financial

institutions, casinos, and bookmakers ensure money laundering (including for the purpose of international terrorism is negated).

Money laundering is best controlled through amendments to the Act, which enable interactive gambling.

#### **5.5.2.3 Undesirable role for government**

Government legislation to prohibit discretionary expenditure on the population to control what is otherwise an acceptable activity (regulated gaming), because a very small minority may develop a problem, is a draconian measure. Credit cards are able to purchase alcohol and tobacco products, and take away food for obese people, where might some future governments stop?

#### **5.5.3 Inappropriate response to problem gambling control**

As legitimate payment mechanisms are squeezed through regulation, less scrupulous interactive service providers will find ever increasing methods to receive customer payment. This will force Australian gamblers into a position of dealing with the least scrupulous of unknown operators, in dubious jurisdictions. This type of provider is less likely than any other to implement controls to limit potential problem gambling in Australia associated with interactive gambling services thus, creating an even worse situation for the vulnerable.

Controls on discretionary expenditure are not an appropriate response to problem gambling control. Other mechanisms, as described in **4 Harnessing technology to limit problem gambling** are available.

## 6 Revisiting the Productivity Commission Report

This section revisits some of the far sighted findings and recommendations of the Productivity Commission in its report titled, "Australia's Gambling Industries", dated 1999-11-26. This report is the most thorough analysis of Australia's gambling industries undertaken and should therefore remain as a benchmark for considerations.

WWWagering & Gaming Consultants submit the Commission presented an overly simplistic view of the link between accessibility and problem gambling per **4.1 The link between accessibility and problem gambling behaviour** on page 2.

### 6.1 Productivity Commission consideration of interactive gambling

There has been a lot of talk and referencing to the Productivity Commission report, particularly by Government in stating a policy to enforce a moratorium and consider outright bans. Refer to the Prime Ministers Press Release titled "National Approach to Problem Gambling"; dated 16 December 1999 in which he stated, "...I am particularly concerned about the effect of a rapid expansion of internet gambling and the Government will be investigating the feasibility and consequences of banning internet gambling". While this Press Release pre-empted the Senate Select Committee on Information Technologies review and in a single press release set Government policy with regard to Internet gambling, it did not necessarily reflect the findings of the Productivity Commission.

In an attempt to bring attention to the facts of the findings of the Productivity Commission Report, several quotations follow. The Productivity Commission stated (with WWWagering & Gaming Consultants submissions bracketed in blue text):

One advantage of the internet as a gambling medium is that it provides a gambler with ready access to comprehensive information about his or her spending pattern and levels. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

#### Implication of the Internet

\* Risks to minors, a major concern for many, are probably not significant for licensed sites — given screening requirements, ease of monitoring of accounts and the inability to gain access to any winnings. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

\* Supplier integrity can be monitored domestically, if not internationally, and could become largely self-enforcing to the extent that gamblers have access to and are informed about preferred reputable sites where payment of any winnings is assured. (WWWagering & Gaming Consultants: social considerations relate to harm minimisation, not just "supplier integrity". By amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

#### Approaches to regulation

There are also good grounds for the regulation of internet gambling along lines appropriate for other gambling forms... (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

- Online gambling offers significant potential benefits to some consumers and scope for commercial returns. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. This will significantly increase the economic returns from exporting player protection.)

- On the other hand, online gambling also poses significant new risks for problem gambling. It represents a quantum leap in accessibility to gambling, and is likely to involve new groups of people in gambling. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

- Risks to minors, a major concern for many, are potentially less significant where there are properly licensed sites — given screening requirements, ease of monitoring of accounts and the inability to access any winnings. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. The Act is currently less than helpful in relation to this risk cited by the Commission)

- The Commission considers that, regardless of what regulatory approach is taken, there are strong grounds for governments to pursue palliative measures, such as:
  - warning people of the hazards of offshore online gambling;
  - providing information on the internet about gambling help services and gambling sites which meet consumer protection criteria; and
  - making available or promoting software for providing consumers with greater control over their gambling. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

- However, there are also grounds for regulation of internet gambling, along the lines of regulations applying to other gambling forms. The Commission considers that there are ways of controlling online gambling sufficiently to exercise such regulations. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. Enabling regulation is appropriate for economic and social reasons, and as the Productivity Commission correctly considered it feasible.)

- Prohibition of online gambling would clearly reduce gambling problems associated with the internet, but would also eliminate any benefits of the technology. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. The Act is currently less than ineffective as prohibiting legislation.)

- Managed liberalisation — with tight regulation of licensed sites to ensure integrity and consumer protection — has the potential to meet most concerns, as long as the approach is national. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. States and Territories have agreed the AUS Model; refer to Annex C)

#### 18.4 What are the costs of interactive gambling?

Participants in the inquiry raised a number of problems associated with interactive gambling in any unregulated market, including exacerbated problem gambling, accessibility of minors to gambling, supplier integrity, adverse community impacts and a loss of revenue. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. This observation by the Commission foresaw the problems now associated with the Act.)

#### Problem gambling

While problem gambling is an issue for both venue-based and internet gambling the concern is that, the characteristics associated with internet gambling make it a particularly troublesome medium. A key aspect of the risks of online gambling is the degree to which it increases accessibility:

- Access is 24 hours per day. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. The AUS Model per Australian regulation forces a break in play, whereas the unlimited 24 hour access is forced on Australians by the Act.)
- Gambling can be slotted into very small periods, increasing convenience, but also of impulsive gambling. As noted by the Interchurch Gambling Taskforce, an office worker, might for example, try to double their paycheck on a whim during an office break (sub. 167, p. 4). (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. Licensed Australian providers have loss limits, while a worker might try to double a pay cheques, the worker would be restricted from losing it. The Act ensures such safeguards are not currently in place to protect Australians.)
- There is no longer any issue of scarcity of machines (such as occurs through caps or venue licensing restrictions) — if a person has an internet-connected computer they have access to a myriad of gambling forms. (WWWagering & Gaming Consultants: strongly submits the case that “interactive appeal” must be maintained in the medium to long term for sites to have relevance; WWWagering & Gaming Consultants has devised a methodology<sup>1</sup> to enable that all licensed providers to ensure barred from one, barred from all treatment of customers; while maintaining customer and licensee privacy. This is far superior to the notion that a cap on gaming machines has an impact, when customers can roam from machine to machine within venues, and venue to venue within regions without complete anonymity and zero spending restrictions at any instance).
- Other than having determined a payment method, there are no conditions of entry, dress requirements, expectations of patron behaviour or capacity to exclude children. A person can be disorderly, drunk or on drugs, and play at the home casino — so long as they can guide their mouse or still push the keys on their keyboard. (WWWagering & Gaming Consultants: spending limits enforced only by Australian licensed providers are the ultimate objective safeguard. However, the *Interactive Gambling Act 2001* (Cth) ensures these safeguards are not made available to Australian gamblers. By amending the Act to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services.)

<sup>1</sup> Proprietary method outside the scope of this submission.

- The technology is, however, relatively socially inaccessible at the moment, reflecting the differential receptiveness of people to computer technology, which explains why it is the young (and well-off) who currently dominate as internet gambling customers. However, this pattern of use will change. It can be expected that the majority of households will soon have internet capable machines. If 70 per cent of households acquire this technology in the next five years, this will imply that there will be about five million (home) casinos offering gaming machines, casino table games and other gambling opportunities in Australia — a massive increase in accessibility. As well, people will be able to access gambling opportunities from internet cafes or from hundreds of thousands of workplaces. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. Spending limits are only enforced by Australian licensed providers under the AUS Model. However, the Act currently ensures such safeguards are not provided to Australian gamblers.)

- Advertising of online gambling (whether deceptive or not) or inducements to gamble are much harder to control than for other media, again acting to stimulate demand. For example, a Commission staff member set up an email account for an under-18 year old with a well known free email provider (indicating the status of the client as a minor). Within days, unsolicited messages were received inviting the mail recipient to gamble at online casinos. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. Spending limits are only enforced by Australian licensed providers under the AUS Model, which also enforces controls relating to under age gambling. However, the Act currently ensures such safeguards are not provided to Australian gamblers.)

...

- Initial outlays to play casino-type games, such as roulette and blackjack can be very low, because of the greater productivity of online casinos. (WWWagering & Gaming Consultants: by amending the *Interactive Gambling Act 2001* (Cth) to enable Australian providers to sell to Australians, and create policy certainty, then technology can be exploited to limiting the potential for problem gambling in Australia with interactive gambling services. Spending limits are only enforced by Australian licensed providers under the AUS Model. However, the Act currently ensures such safeguards are not provided to Australian gamblers. Instead Australians are forced to gamble with potentially unscrupulous, unlicensed, off-shore operators.)

In uncharacteristic bold text the Productivity Commission stated:

**The Commission considers that some form of regulation of internet gambling, is, *subject to controllability*, an important objective, and is consistent with the aspirations of other regulations applying to gambling — consumer protection, probity and preservation of revenue.**

WWWagering & Gaming Consultants support this consideration and submit that the *Interactive Gambling Act 2001* (Cth) is counter to the aspirations cited here by the Productivity Commission. Greater regulation is currently applied – to Australian interactive gambling providers - than is achievable in the physical world due to the non-anonymous nature of every transaction. However, Australian customers are not afforded this protection.

#### **What mechanisms are available for control?**

It should be emphasised that the relevant question for public policy is not *whether* online gambling can be controlled, but the *extent* to which it can be controlled. Full control is an unattainable objective, which would be undesirable to achieve because of its attendant costs. A reasonable objective is to significantly reduce demand for and access to unlicensed sites. This is the same principle that applies to illegal 'physical' gambling - it is not argued that SP bookies and unlicensed casinos be made legal simply because there is a possibility that some will remain operating.

(WWWagering & Gaming Consultants: online gambling can be controlled by State and Territory gambling regulators implementing the agreed principles embodied in the AUS Model. Illegal gambling proliferates on the Internet because some jurisdictions (e.g. Australia and the United States) attempt to prohibit the activity. Enabling regulation saw the end to illegal physical casinos and SP bookmaking. Based on that experience it is to be expected that regulated (enabled) interactive gambling could see the end to unscrupulous illegal operators which currently dominate interactive gambling and target persons with little regard for age or problem gambling.)

The across-the-board prohibition of online gambling has a number of other potential disadvantages. It would:

- make it impossible for governments to regulate consumer protection features as part of legal 'safer' sites, consistent with a general approach of harm minimisation. The people who use unregulated offshore sites because of the absence of safer regulated local sites may be exposed to significant risks;
- reduce the choice of gambling products and suppliers available to consumers; and
- eliminate domestic commercial opportunities and exports of gambling services.

A transitional disadvantage is that banning would lead to adjustment costs for existing internet gambling providers.

The *Interactive Gambling Act 2001* (Cth) enforces these disadvantages on Australians.

### **Managed liberalisation**

An alternative option is one of managed liberalisation within a nationally agreed framework. Managed liberalisation would have harm minimisation and consumer protection as its chief goal. It would require regulation of Australian sites and bans on offshore sites which do not meet minimum consumer protection standards. The bans on offshore sites could be achieved using the control mechanisms discussed in section 18.7, and would probably be relatively effective because consumers would still be able to gamble on the (safer) legal internet sites with ease. Lighter handed regulation may achieve more than prohibition, as noted by Bell (1999, p. 12):

*...proponents of a ban on internet gambling have argued that, if prohibition will not work, then neither will any scheme of regulation. Such an argument fundamentally misunderstands a basic principle of governance: if they offer greater benefits than burdens, regulations can succeed even where prohibition fails. The comparative advantage of limited regulation over prohibition explains why people do not illegally shoot craps in Las Vegas alleys.*

A key advantage of managed liberalisation is that it allows the development of measures to counter the problems occasioned by gambling in a way that is consistent with other codes — and possibly, more successful.

#### *Problem gambling*

In chapter 16 a range of measures were suggested for ameliorating problem gambling. Some of these have already been implemented as part of Australian internet gambling sites. For example, Lasseters Online Casino ([www.lasseters.com.au](http://www.lasseters.com.au)) has:

- scope for self-exclusions, of initially 7 days, but indefinitely after three successive self-exclusions. Self-exclusions of this sort are likely to be highly effective compared with those offered in physical venues, where people may not be detected;
- a link to the website of Amity Community Services, which includes a self-diagnosis test of problem gambling;
- links to downloads of Net Nanny and Cyber Patrol for controlling child access to internet material deemed inappropriate by parents;
- records of transactions so players know what they have spent; and
- possibly, most significantly, the facility to set expenditure limits — which are currently impossible in physical venues. To date (October 1999), 541 subscribers to Lasseters' online services have set a bet limit (about 4 per cent of total subscribers).

Gambling providers noted the potential for regulated internet sites to be inherently safer than other licensed venues:

*Internet gambling systems are much more able to closely monitor a player's activity and habits than in traditional gambling activities for example by collecting data by player on what games are played, when, how many times, for how long and with what results. Thus these systems are able to provide powerful means to monitor and control the amount a player bets and may also limit a player's gambling in other ways, such as the length of time they wish the system to permit them to gamble ... Regulators, as a matter of good practice, will probably need to place more emphasis on aspects other than player fairness — especially protecting problem gamblers (Access Systems, sub. 16, pp. 4, 7)*

*Interactive gaming is a new form of gaming that will naturally raise questions in the community. However, Tattersall's believe that interactive gaming (if properly regulated) has the potential to create less problems than more traditional forms of gambling (Tattersall's, sub. 156, p. 59).*

In theory, nearly all the informed consent and harm minimisation measures described in chapter 16 can be readily incorporated into online gambling sites — including time reminders, self-imposed time limits, betting rate limits and breaks. It is also possible that the dual pricing strategies discussed in chapter 16 may be more feasible in online gambling than physical machines, because of the lower costs of operating virtual casinos. Surebet Gaming Systems (sub. D263, p. 18) and Access Systems (sub. 16, p. 5) have also floated the option of identifying problem gambling from playing patterns — which may be useful in providing early assistance to gamblers. For example, Access Systems notes:

*A properly designed licensed system gathers huge quantities of raw data automatically, as a standard part of an internet gaming system, so it will be a relatively minor step to develop software to analyse this data and search for patterns of behaviour within prudent limits on privacy. Planning should be put in place early to select and analyse data gathered on real internet gambling activity ... with the prospect of using these patterns to identify possible problem gamblers in live systems.*

One flaw in current online harm minimisation measures is the lack of coordination between different sites. A person who self-excluded on one site could subsequently enter another licensed site. This might be solved at the PC-level using the software methods described in section 18.5. Or it may be that Australian online gamblers could store some player preferences (such as self-exclusion, player expenditure limits or time limits) in a central database, which all would interrogate. This is similar to the way that EFTPOS facilities can be accommodated by thousands of participating retailers because they have links to central computers with the account information. The Commission sees benefits in technical measures, such as a central database, that may enable a gambler to credibly pre-commit to time or money limits and self-exclusion (if they wish to do so) across all Australian licensed online gambling sites. ([WWWagering & Gaming Consultants: States and Territories have continued to work together and ensured compatible regulation through the AUS Model. Consequently, this flaw perceived by the Productivity Commission has dissipated.](#))

It is also important that people with expertise on the functioning of the internet be represented among regulators, so that consumer protection and other regulatory measures take account of the realities of the evolving technologies.

#### *Minors*

In a controllable environment, a number of measures could be introduced to limit the accessibility of minors and to detect gambling by minors. These include:

- making it illegal for minors to gamble on the internet and advertising its illegality at gambling sites;
- a requirement that gamblers must fax identification papers (such as a passport or drivers license) to a licensed gambling provider to verify age;
- cheques (which are a more secure payments mechanism), rather than credit cards be used to establish gambling accounts;
- the issuing of a password once registration is complete;
- a requirement that when money is transferred into a gambling account an electronic e-mail is sent to the gambler so that unauthorised financial transactions can be detected; and
- gambling providers to provide players with a regular log of all past play so that unauthorised gambling can be detected.

These features are now incorporated into existing Australian sites, so that the risk of access by minors without parental consent is likely to be significantly lower than for physical venues. However, minors will be able to gamble on the internet if their parents provide consent.

#### *Integrity*

In a controlled environment integrity problems can be minimised with encryption and regulation.

Encryption is a means of scrambling data so that only the holder of the electronic key can read the message. It is a method used to guarantee privacy of information and to ensure security of financial transactions over the internet. Encryption is already being used by internet gambling providers such as Centrebet to ensure security in payments mechanisms. In addition, financial institutions worldwide have demonstrated confidence in the technology and are using encryption so that customers can securely operate accounts over the internet.

Other integrity problems such as whether an internet gambling provider is providing a fair game of chance, or has the financial capacity to pay winnings can be controlled by regulations including:

- the licensing of internet gambling providers pursuant to background checks and financial capacity,
- approval of internet games and control systems by a regulatory authority and
- the periodic testing of games to verify odds.

Coms21 Ltd reported that under its proposed regulatory model:

*The manager cannot bias the outcome as the outcome random process algorithm and its installation is verified by the regulator; the generation of the random number is directly supervised by the regulator, with there being no opportunity for the manager or any other party interfering with equipment or software and once the random number is determined the outcome of the bet is determined and recorded independently by the regulator (Weston 1998, p. 5).*

Further, Coms21 conjectured that while an internet gambling operator may go bankrupt, a player's account, under regulation, could remain protected. In their proposed model a regulator would control funds equal to the players account plus an amount to cover winning streaks and jackpots.

These integrity features provide a major incentive for consumers to prefer licensed sites to offshore unregulated sites:

*The reality of it is that to cyber-gamble outside of Australia, you would send money thousands of miles away to an unregulated, uncontrolled and probably illegal enterprise, give them a credit card number, then trust them to tell you when you've won (Toneguzzo 1997, p. 13).*

The managed liberalisation envisaged by the Productivity Commission is assured by Licensed Australian providers and only if momentum is not further delayed by a moratorium. A moratorium can only work to provide revenues to unregulated off-shore providers without any of the safeguards cited by the Productivity Commission.

## **6.2 Summary of Productivity Commission findings**

In summary the Productivity Commission supported the using technology to aid in the objective to limit the likelihood of problematic gambling are either banned from protecting Australians or choose not to sell to Australians. These controls are in place in States and Territories which choose to regulate interactive gambling.

The Productivity Commission recognised that to attempt to ban online gambling would be counterproductive on economic and social grounds. WWWagering & Gaming Consultants submit the Productivity Commission views are as valid today as they were in November 1999.

**NOTE** – ANNEXURES OMITTED FROM THIS VERSION TO REDUCE FILE SIZE.